

IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TROY D. WHITMORE,

Plaintiff,

v.

DONALD SNYDER, *et al.*,

Defendants.

Case No. 3:04-cv-00837-JPG-PMF

ORDER

This matter comes before the Court on Magistrate Judge Philip M. Frazier's Report and Recommendation ("R & R") (Doc. 189) of October 7, 2011, wherein it was recommended Defendant Major Moore's motion for summary judgment (Doc. 180) and memorandum in support (Doc. 181) be denied. The Plaintiff filed a response in opposition to the motion for summary judgment (Doc. 183). After reviewing a magistrate judge's report and recommendation, the Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in the report. Fed. R. Civ. P. 72(b). The Court has discretion to conduct a new hearing and may consider the record before the magistrate judge anew or receive any further evidence deemed necessary. *Id.*

The Court must review *de novo* the portions of the report to which specific written objections are made. *Id.* "If no objection or only partial objection is made, the district court Judge reviews those unobjected portions for clear error." *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). No objections were made to the R&R by either party and after reviewing it, the Court finds it to be an accurate statement of the law as applied to Defendant Major Moore. There are contested factual issues remaining in this matter which render it inappropriate for the Court to render summary judgment.

Accordingly, the Court hereby **ADOPTS** the R & R (Doc.189) **in its entirety** and **DENIES** Defendant Major Moore's motion for summary judgment (Doc. 180).

IT IS SO ORDERED.

DATED: November 4, 2011

s./ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE